

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY LIMA PRIORITY

C O N F I D E N T I A L STATE 199886

E.O. 11652: GDS

TAGS: EINV, EMIN, PFOR, PE, US

SUBJECT: MARCONA NATIONALIZATION

REFS: A. LIMA 6754 B. LIMA 6766 C. LIMA 6793

D. LIMA 6804 E. LIMA 6821

1. DEPT OFFICERS MET WITH BRADFIELD AFTERNOON OF AUGUST 20 TO REVIEW DEVELOPMENTS UP TO THAT POINT (REF B). BRADFIELD INFORMED US THAT COMPTON HAD REMAINED IN LIMA FOLLOWING CONVERSATION WITH DE LA PUENTE WHICH RESULTED IN SCHEDULING OF A FURTHER MEETING. BRADFIELD CHARACTERIZED THIS DEVELOPMENT AS POTENTIALLY ENCOURAGING, BUT EXPRESSED STRONG DOUBTS THAT GOP HAD ANYTHING IN MIND OTHER THAN DELAYING TACTICS TO AVOID USG RETALIATION.

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2. DEPT OFFICERS NOTED THEIR VIEW THAT THIS WAS A POSITIVE DEVELOPMENT IN THAT IT KEPT CHANNELS OPEN BETWEEN MARCONA AND GOP. (WE HAD BEEN CONCERNED THAT FURTH'S ACTION IN CANCELING AUGUST 19 MEETING WAS PRECIPITOUS AND COULD OPEN MARCONA TO CHARGES, HOWEVER QUESTIONABLE, THAT THEY HAD REJECTED ATTEMPTS TO RESOLVE THE MATTER THROUGH NEGOTIATIONS.) WE EXPRESSED TO BRADFIELD OUR VIEW THAT ONE OF THE MAIN DIFFICULTIES THAT HAD ARISEN WAS

MISUNDERSTANDING BETWEEN THE PARTIES AS TO WHAT WAS MEANT BY "NEGOTIATIONS." GOP IS CLEARLY CONCERNED WITH MAKING CLEAR ITS VIEW THAT PROVISIONS OF PERUVIAN LAW ARE NON-NEGOTIABLE, WHEREAS THE SORT OF NEGOTIATIONS THAT WOULD BENEFIT MARCONA WOULD BE DIRECTED TOWARD A PACKAGE COMPENSATION ARRANGEMENT, THE VARIOUS COMPONENTS OF WHICH NEED NOT BE IDENTIFIED AS COMPENSATION FOR ANY PARTICULAR PROPERTIES.

3. BRADFIELD CONFIRMED THAT MARCONA'S INTERESTS LIE IN ARRIVING AT A PACKAGE SETTLEMENT, AND NOT IN DEBATING WITH THE PERUVIANS THE VIRTUES OF THE SPECIFIC MEASURES TAKEN UNDER THE DECREE LAW. HOWEVER, HE QUESTIONED WHETHER THE GOP WOULD BE ABLE TO RATIONALIZE A COMPENSATION PACKAGE AT A LEVEL ACCEPTABLE TO MARCONA IN VIEW OF THE DECREE LAW PROVISIONS (PARTICULARLY ARTICLE 8). HE AGREED, HOWEVER, THAT CONTINUING NEGOTIATIONS WERE USEFUL AS A MEANS OF EXPLORING THE GOP'S WILLINGNESS TO ARRIVE AT A PACKAGE SETTLEMENT, AND FELT THERE WERE A NUMBER OF ISSUES THAT COULD BE DISCUSSED IN THIS CONTEXT WITHOUT DEBATING THE LEGAL MERITS OF THE PERUVIAN LEGISLATION.

4. WE REALIZE THAT GOP HAS CREATED A SITUATION WHERE IT MAY BE POLITICALLY IMPOSSIBLE FOR THEM TO RETREAT FROM THE PUBLIC POSITIONS THEY HAVE TAKEN, PARTICULARLY THE POSITION THAT NO COMPENSATION SHALL BE PAID FOR THE SAN NICHOLAS FACILITIES. HOWEVER, IT APPEARS THAT OUR STRONG EXPRESSIONS OF CONCERN AND INTEREST IN THE MATTER MAY BE RESULTING IN GOP DESIRE TO RESOLVE ISSUE SHORT OF CONFRONTATION (REFS C AND D). THE APPROACH OUTLINED ABOVE
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WOULD GIVE THEM A WAY OUT. IT WOULD APPEAR THAT GOP MAY HAVE REACHED THE SAME CONCLUSION (REF E).

5. AT THIS POINT IN TIME THE FOCUS OF NEGOTIATIONS HOPEFULLY MAY BE MOVING AWAY FROM ARGUMENT OVER THE LEGALITY OF PAST ACTIONS AND INTO A FRAMEWORK WHERE THE PARTIES COULD ATTEMPT TO NEGOTIATE A BOTTOM-LINE COMPENSATION FIGURE AND THEN DEVELOP MEANS OF PROVIDING

COMPENSATION TO THE COMPANY IN A MANNER WHICH WOULD NOT
REQUIRE GOP TO RETREAT COMPLETELY FROM ITS PUBLIC POSITION.
WE ARE ENCOURAGED BY THIS APPARENT TREND AND THINK IT WOULD
BE USEFUL AT THIS STAGE FOR US TO SEE IF IT DEVELOPS AS
WE HOPE.

6. WE HAVE INFORMED BRADFIELD THAT DEPT COMMUNICATIONS
FACILITIES ARE AVAILABLE TO MARCONA ON A REIMBURSEABLE
BASIS (INTERESTED PARTY TRAFFIC) SHOULD THEY WISH TO

USE THEM IN FUTURE. MAW

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